

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

**FILED**  
JAN 21 2010  
\*\*\*\*\*  
*[Signature]*  
CLERK

UNITED STATES OF AMERICA, \* CR 08-50079

1

UNITED STATES OF AMERICA, \* CR 08-50079

\* CR 08-50079

1

**Plaintiff,**

1

vs.

\* 8

**JOHN GRAHAM,  
a/k/a John Boy Patton; and  
VINE RICHARD MARSHALL,  
a/k/a Richard Vine Marshall,  
a/k/a Dick Marshall,**

## Defendants.

6

## ORDER

**JOHN GRAHAM,  
a/k/a John Boy Patton; and  
VINE RICHARD MARSHALL,  
a/k/a Richard Vine Marshall,  
a/k/a Dick Marshall.**

## Defendants.

2

\*\*\*\*\*

The Defendant Marshall made a Motion to Suppress, Doc. 402. On December 10, 2009, Judge Duffy entered a Report and Recommendation, Doc. 537, which allowed fourteen (14) days for the Defendant to file a supplemental brief to explain his Fifth Amendment argument, if indeed he was asserting such an argument, in addition to his Sixth Amendment argument. No such brief has been filed and the time for objecting to the Report and Recommendation has also expired. After considering the file, including the submissions of the parties on this suppression motion, the Court does adopt the Report and Recommendation and, accordingly,

**IT IS ORDERED:**

1. That the Magistrate Judge's Report and Recommendation, Doc. 537, is ADOPTED by the Court, and Defendant's Motion to Suppress, Doc. 402, is denied.

Dated this 21st day of January, 2010.

BY THE COURT:

Jeanne L'Puisne

Lawrence L. Piersol  
United States District Judge

**ATTEST:**

**JOSEPH HAAS, CLERK**

BY: Summer Whipple  
DEPUTY